

16 August 1988
OCA 2772-88

MEMORANDUM FOR: Deputy Director of Personnel
Chief, Administrative Law Division/OGC
Deputy Director for Compensation, Automation
and Planning/OP

FROM: [REDACTED] Legislation Division
Office of Congressional Affairs

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SUBJECT: OPM Draft Bill Regarding SES Compensation

1. The Office of Management and Budget has asked for our views on the above-captioned bill (attached), which aims to meet certain recommendations made by the President's Commission on Compensation of Career Federal Executives. The bill would increase the bonus pool for the Senior Executive Service, as well as SES Presidential Rank Awards. It would eliminate the ceiling on the amount of compensation to be received in a fiscal year. Lastly, it would allow the SES to receive yearly a lump-sum payment for annual leave accumulated over 120 hours.

2. In order that I may reply to OMB in a timely fashion, I ask that you forward any comments to me no later than 23 August 1988. You may relay them by telephoning me on [REDACTED]

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Attachment

SUBJECT: Memo for DD/OP, C/ALD/OGC, and DD/CAP/OP re OPM
Draft Bill Regarding SES Compensation

OCA/RMH/bsb: [] 16 August 88

Distribution:

Orig - addressee(s)

1 - D/OCA (w/att.)

1 - DD/LEG (w/att.)

1 - SA/OCA [] (w/att.)

1 - CAP/OP [] (w/att.)

1 - OCA Records (w/att.)

1 - RMH Chrono (w/o att.)

1 - OCA/LEG Subj. File (Misc. Personnel) (w/att.)

A BILL

To amend title 5, United States Code, to improve the compensation for members of the Senior Executive Service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Senior Executive Service Compensation Amendments of 1988".

Sec. 2. Section 4507(e) of title 5, United States Code, is amended--

(1) in paragraph (1), by striking out "of \$10,000" and inserting in lieu thereof "equal to 20 percent of the maximum rate paid under section 5382 of this title, rounded to the next higher \$100"; and

(2) in paragraph (2), by striking out "of \$20,000" and inserting in lieu thereof "equal to 40 percent of the maximum rate paid under section 5382 of this title, rounded to the next higher \$100".

Sec. 3. Section 5383 of title 5, United States Code, is amended by striking out subsection (b), and by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

Sec. 4. (a) Section 5384 of title 5, United States Code, is amended to read as follows:

"§5384. Performance, recruitment, and retention awards in
the Senior Executive Service

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"(a)(1) To encourage excellence in performance by career appointees and to aid in the recruitment and retention of career appointees with exceptional qualifications or for difficult-to-fill positions, awards shall be paid to career appointees in accordance with the provisions of this section.

"(2) Such awards shall be paid in a lump sum and shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 4507 of this title.

"(b)(1) No award under this section shall be paid to any career appointee whose performance was determined to be less than fully successful at the time of the appointee's most recent performance appraisal and rating under subchapter II of chapter 43 of this title.

"(2) The amount of an award under this section shall be determined by the agency head but may not be less than 5 percent nor more than 20 percent of the career appointee's rate of basic pay. A career appointee may be paid both a performance award and a recruitment or retention award in the same fiscal year.

"(3) The aggregate amount of awards paid under this section by an agency during any fiscal year may not exceed the greater of--

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"(A) an amount equal to 10 percent of the aggregate amount of basic pay paid to career appointees in such agency during the preceding fiscal year; or

"(B) an amount equal to 15 percent of the average of the annual rates of basic pay paid to career appointees in such agency during the preceding fiscal year.

"(4) Of the amount determined under paragraph (3) of this subsection, an agency may pay not to exceed four-tenths in recruitment or retention awards in accordance with subsection (d) of this section.

"(c) Awards paid by any agency under this section on the basis of performance shall be based on recommendations by performance review boards established by such agency under section 4314 of this title.

"(d)(1) In order to recruit or retain a career appointee with exceptional qualifications or for employment in a difficult-to-fill position, an agency may pay an award to such appointee in accordance with such criteria and guidelines as the Office of Personnel Management may provide.

"(2) An award may be paid to a career appointee under this subsection only if the career appointee enters into a service agreement with the agency under which the career appointee agrees to complete one year of service with the agency. If the career appointee voluntarily, or because of

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misconduct, fails to complete the year of service, the career appointee shall be required to repay the full amount of this award, unless the head of the agency determines that such repayment should be waived, in whole or in part, because of extenuating circumstances beyond the control of the career appointee. If the career appointee is separated involuntarily by the agency, other than for misconduct, before the year of service is completed, no repayment may be required.

"(e) The Office of Personnel Management may issue guidance to agencies concerning the proportion of Senior Executive Service salary expenses that may be appropriately applied to payment of awards and the distribution of awards.".

(b) The item relating to section 5384 in the analysis for chapter 53 of title 5, United States Code, is amended to read as follows:

"5384. Performance, recruitment, and retention awards in the Senior Executive Service.".

Sec. 5. (a) Subchapter VI of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following new sections:

"5553. Lump-sum payment for accumulated and accrued leave for members of the Senior Executive Service

"A member of the Senior Executive Service is entitled to receive a lump-sum payment for all or any portion of any

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accumulated and current accrued annual leave to such member's credit in excess of 120 hours, if the member applies to receive such payment during an annual application period to be prescribed by the Office of Personnel Management for such purpose.

"5554. Regulations

"The Office of Personnel Management may prescribe regulations necessary for the administration of this subchapter."

(b) The analysis for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5552 the following new items:

"5553. Lump-sum payment for accumulated and accrued leave for members of the Senior Executive Service.

"5554. Regulations."

Sec. 6. (a) The amendments made by this Act shall take effect on October 1, 1988, but any authority to make payments under any amendment made by this Act shall be effective only to such extent or in such amounts as are provided for in advance by appropriation Acts.

(b) The Office of Personnel Management may prescribe regulations limiting the number of hours of annual leave for which a member of the Senior Executive Service may receive a

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lump-sum payment each year. Such regulations shall remain in effect until such date as the Office may provide, but not later than September 30, 1993.